

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION**

TIMOTHY A. WILLIAMS

PETITIONER

V.

NO. 1:21-CV-109-DMB-RP

**SUPERINTENDENT ANDREW
MILLS**

RESPONDENT

ORDER

On June 30, 2021, Timothy A. Williams filed a pro se petition for a writ of habeas corpus in the United States District Court for the Northern District of Mississippi. Doc. #1. After the State responded¹ to the petition, Williams filed a document titled “Withdrawal” indicating his wish to withdraw his petition “without prejudice” because he “has an active case at the state level which will include this matter.” Doc. #11. The State responded to the filing, Doc. #12, and Williams filed a rebuttal, Doc. #13.

On June 17, 2022, United States Magistrate Judge Roy Percy issued a Report and Recommendation (“R&R”) construing the “Withdrawal” as a notice of voluntary dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1), finding the notice ineffective because the State already filed an answer, and recommending that “the case should move forward.”² Doc. #14 at 1–2. No objections to the R&R were filed and the time within which to do so has passed.

“With respect to those portions of the report and recommendation to which no objections were raised, the Court need only satisfy itself that there is no plain error on the face of the record.” *Gauthier v. Union Pac. R.R. Co.*, 644 F. Supp. 2d 824, 828 (E.D. Tex. 2009) (citing

¹ Doc. #9.

² The R&R notes that “[i]t appears [Williams] has now exhausted [his] additional claims in state court.” Doc. #14 at 1 n.2.

Douglass v. United Servs. Auto. Ass’n, 79 F.3d 1415, 1428–29 (5th Cir. 1996)). The Court has reviewed the R&R and finds no plain error on the face of the record. Accordingly, the R&R [14] is **ADOPTED** as the order of the Court. Williams’ “Withdrawal” [11] is **DEEMED** ineffective and this case will proceed.

SO ORDERED, this 7th day of July, 2022.

/s/Debra M. Brown
UNITED STATES DISTRICT JUDGE